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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on the 18th May, 1990:—

BILL NO. 93 OF 1990

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-first Year of the Republic of India as follows:—

Short title and commencement.

1 (*1*) This Act may be called the Constitution (Sixty-Seven Amendment) Act, 1990.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of article 124.

2. In article 124 of the Constitution, in clause (2),—

(*a*) for the portion beginning with the words "after consultation with such of the Judges of the Supreme Court" and ending with the words "Provided further", the following shall be substituted, namely:—

"on the recommendation of the National Judicial Commission and shall hold office until he attains the age of sixty-five years:

Provided that where the recommendation of the National Judicial Commission is not accepted, the reasons therefor shall be recorded in writing:

Provided further that the Chief Justice of India shall be appointed by the President by warrant under his hand and seal after

consultation with such of the Judges of the Supreme Court and of the High Courts in the States as the President may deem necessary for the purpose:

Provided also";

(*b*) the following *Explanation* shall be inserted at the end, namely:—

"*Explanation*.—Nothing in the first proviso to this clause shall be construed as empowering the President to appoint any person as a Judge of the Supreme Court unless he is recommended by the National Judicial Commission for such appointment.".

Amendment of article 217.

3. In article 217 of the Constitution, in clause (1),—

(*a*) for the portion beginning with the words "after consultation with the Chief Justice of India" and ending with the words "Provided that", the following shall be substituted, namely:—

"on the recommendation of the National Judicial Commission and shall hold office, in the case of an additional or acting Judge, as provided in article 224, and in any other case, until he attains the age of sixty-two years:

Provided that where the recommendation of the National Judicial Commission is not accepted, the reasons therefor shall be recorded in writing:

Provided further that";

(*b*) the following *Explanation* shall be inserted at the end, namely:—

"*Explanation*.—Nothing in the first proviso to this clause shall be construed as empowering the President to appoint any person as a Judge of any High Court unless he is recommended by the National Judicial Commission for such appointment.".

Amendment of article 222.

4. In article 222 of the Constitution, in clause (1),—

(*a*) for the words "after consultation with the Chief Justice of India", the words "on the recommendation of the National Judicial Commission" shall be substituted;

(*b*) the following proviso shall be inserted at the end, namely:—

"Provided that where the recommendation of the National Judicial Commission is not accepted, the reasons therefor shall be recorded in writing.".

Amendment of article 231.

5. In article 231 of the Constitution, in clause (2), for sub-clause (*a*), the following sub-clause shall be substituted, namely:—

"(*a*) the reference in sub-clause (*b*) of clause (3) of article 307A to the Chief Minister of the concerned State shall be construed as a reference to the Chief Ministers of all the States in relation to which the High Court exercises jurisdiction; ".

6. After Part XIII of the Constitution, the following Part shall be inserted, namely:— Insertion of new Part XIIIA.

"PART XIIIA

NATIONAL JUDICIAL COMMISSION

307A. (1) The President shall by order constitute a Commission, referred to in this Constitution as the National Judicial Commission. Constitution of National Judicial Commission and its functions.

(2) The National Judicial Commission shall make recommendations to the President as to the appointment of a Judge of the Supreme Court (other than the Chief Justice of India), a Judge of a High Court and as to the transfer of a Judge from one High Court to any other High Court.

(3) The National Judicial Commission shall,—

(*a*) for making recommendations as to the appointment of a Judge of the Supreme Court (other than the Chief Justice of India, a Chief Justice of a High Court and as to the transfer of a Judge from one High Court to any other High Court, consist of—

(*i*) the Chief Justice of India, who shall be the Chairperson of the Commission; and

(*ii*) two other Judges of the Supreme Court next to the Chief Justice of India in seniority;

(*b*) for making recommendation as to the appointment of a Judge of any High Court, consist of—

(*i*) the Chief Justice of India, who shall be the Chairperson of the Commission;

(*ii*) the Chief Minister of the concerned State or, if a Proclamation under article 356 is in operation in that State the Governor of that State;

(*iii*) one other Judge of the Supreme Court next to the Chief Justice of India in seniority;

(*iv*) the Chief Justice of the High Court, and

(*v*) one other Judge of the High Court next to the Chief Justice of that High Court in seniority.

(4) Subject to the provisions of any law made by Parliament, the procedure to be followed by the National Judicial Commission in the transaction of its business shall be such as the President may, in consultation with the Chief Justice of India, by rule determine.

(5) The National Judicial Commission shall have a separate secretarial staff and their conditions of service shall be such as the President may, in consultation with the Chief Justice of India, by rule determine."

STATEMENT OF OBJECTS AND REASONS

The Government of India have in the recent past announced their intention to set up a high level judicial commission, to be called the National Judicial Commission for the appointment of Judges of the Supreme Court and of the High Courts and the transfer of Judges of the High Courts so as to obviate the criticism of arbitrariness on the part of the Executive in such appointments and transfers and also to make such appointments without any delay. The Law Commission of India in their One Hundred and Twenty-first Report also emphasised the need for a change in the system.

2. The National Judicial Commission to make recommendations with respect to the appointment of Judges of the Supreme Court will consist of the Chief Justice of India and two other Judges of the Supreme Court next in seniority to the Chief Justice of India. The Commission to make recommendations with respect to the appointment of the Judges of the High Courts will consist of the Chief Justice of India, one senior-most Judge of the Supreme Court, the Chief Minister of the State concerned, Chief Justice of the concerned High Court and one senior-most Judge of that High Court.

3. The Bill seeks to achieve the above object.

DINESH GOSWAMI.

NEW DELHI;
The 11th May, 1990.

FINANCIAL MEMORANDUM

Clause 6 of the Bill seeks to insert article 307A in the Constitution to empower the President to constitute the National Judicial Commission. The National Judicial Commission will have as its Chairman the Chief Justice of India, and as its Members, the Chief Ministers of the concerned States, the Chief Justices of the concerned High Courts, and other senior Judges of the Supreme Court and High Courts. These functionaries will be devoting only part of their time in connection with the work of the Commission, and will draw the travelling and other allowances from the respective budgets.

2. The Commission will have a separate office of its own. The strength and level of the officers and staff to be employed in this office will be determined from time to time by the Chairman of the Commission with the approval of the President. Expenditure will have to be incurred on their salaries and on contingencies for running the office. It is not possible to estimate at this stage the likely expenditure to be involved on this account. However, the expenditure, whether recurring or non-recurring, will be met out of the budgetary grants of the Department of Justice.

3. The Bill, when enacted, will not involve any other recurring or non-recurring expenditure.

SUBHASH C. KASHYAP,
Secretary-General.

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